

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Matthew Chaves	Team: Squad #10	CCRB Case #: 201806404	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 08/15/2018 7:00 AM	Location of Incident: [REDACTED]	Precinct: 67	18 Mo. SOL 2/15/2020	EO SOL 2/15/2020	
Date/Time CV Reported Wed, 08/22/2018 8:45 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 08/22/2018 8:45 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. SGT Charles Schwartz	05458	947478	067 PCT
2. POM Devin Baker	28634	952439	067 PCT
3. SGT David Grieco	03830	940216	067 PCT
4. POM Hector Casillas	30712	952552	067 PCT
5. POM Matthew Walker	18702	959352	067 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Charles Schwartz	Abuse: Sergeant Charles Schwartz entered § 87(2)(b) [REDACTED] in Brooklyn.	[REDACTED]
B.POM Devin Baker	Abuse: Police Officer Devin Baker entered § 87(2)(b) [REDACTED] in Brooklyn.	[REDACTED]
C.POM Devin Baker	Force: At § 87(2)(b) [REDACTED] in Brooklyn, Police Officer Devin Baker used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
D.POM Devin Baker	Force: At § 87(2)(b) [REDACTED] in Brooklyn, Police Officer Devin Baker used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
E.POM Hector Casillas	Force: At § 87(2)(b) [REDACTED] in Brooklyn, Police Officer Hector Casillas used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
F.POM Matthew Walker	Force: At § 87(2)(b) [REDACTED] in Brooklyn, Police Officer Matthew Walker used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
G.SGT David Grieco	Discourtesy: At the 67th Precinct stationhouse, Sergeant David Grieco spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
H.SGT David Grieco	Abuse: At the 67th Precinct stationhouse, Sergeant David Grieco threatened to detain § 87(2)(b) [REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]

Case Summary

On August 22, 2018, § 87(2)(b) filed the following complaint with the CCRB over the phone.

At approximately 7:00 a.m. on August 15, 2018, Sergeant David Grieco, Sergeant Charles Schwartz, Police Officer Devin Baker, Police Officer Hector Casillas, and Police Officer Matthew Walker of the 67th Precinct went to § 87(2)(b) in Brooklyn, the residence of § 87(2)(b) and her adult son, § 87(2)(b). The officers had an arrest warrant for § 87(2)(b) for missing a court date related to a charge of petit larceny. They knocked on the apartment door and spoke to § 87(2)(b) who opened the door part way and continued speaking to the officers. Sergeant Schwartz allegedly put his foot up against the door to hold it open (**Allegation A: Abuse of Authority: Entry of Premises:** § 87(2)(g)).

§ 87(2)(b) came to the front of the apartment and stood behind § 87(2)(b). After both civilians spoke to the officers, Police Officer Baker entered the apartment, pushed § 87(2)(b) to the side, and wrestled § 87(2)(b) into the building hallway (**Allegation B: Abuse of Authority: Entry of Premises:** § 87(2)(g), **Allegation C: Force: Physical Force:** § 87(2)(g), **Allegation D: Force: Physical Force:** § 87(2)(g)). Sergeant Schwartz also fully entered the apartment (within **Allegation A**) while the other officers remained in the building hallway. Police Officer Casillas and Police Officer Walker assisted Police Officer Baker in restraining and handcuffing § 87(2)(b) (**Allegation E: Force: Physical Force:** § 87(2)(g), **Allegation F: Force: Physical Force:** § 87(2)(g)). § 87(2)(b) was then transported to the 67th Precinct stationhouse.

At the stationhouse, § 87(2)(b) was placed into a holding cell. § 87(2)(b) became upset and began shouting and cursing at officers. Sergeant Grieco allegedly told § 87(2)(b) “Shut the fuck up or I’ll push your paperwork back.” (**Allegation G: Discourtesy: Word:** § 87(2)(g), **Allegation H: Abuse of Authority: Other:** § 87(2)(g)).

The investigation obtained BWC footage related to this incident from six officers. Footage from Sergeant Schwartz’s (**Board Review 01**, transcribed in **Board Review 08**), Police Officer Casillas’ (**Board Review 02**, transcribed in **Board Review 09**), Police Officer Baker’s (**Board Review 03**, transcribed in **Board Review 10**), and Police Officer Walker’s (**Board Review 04**, transcribed in **Board Review 11**) BWCs captured FADO allegations. Stationhouse security video was also obtained, but captured no relevant interactions or FADO allegations. § 87(4-b), § 87(2)(g)

Findings and Recommendations

Allegation A – Abuse of Authority: Sergeant Charles Schwartz entered § 87(2)(b) in Brooklyn.

Allegation B – Abuse of Authority: Police Officer Devin Baker entered § 87(2)(b) in Brooklyn.

Allegation C – Force: At § 87(2)(b) in Brooklyn, Police Officer Devin Baker used physical force against § 87(2)(b)

Allegation D – Force: At § 87(2)(b) in Brooklyn, Police Officer Devin Baker used physical force against § 87(2)(b)

Allegation E – Force: At § 87(2)(b) in Brooklyn, Police Officer Hector Casillas used physical force against § 87(2)(b)

Allegation F – Force: At § 87(2)(b) in Brooklyn, Police Officer Matthew Walker used physical force against § 87(2)(b)

§ 87(2)(b) was interviewed on August 27, 2018 (**Board Review 05**). § 87(2)(b) was interviewed on September 7, 2018 (**Board Review 06**). Police Officer Baker was interviewed on September 28, 2018 (**Board Review 07**). Sergeant Grieco was interviewed on October 23, 2018 (**Board Review 08**).

It is undisputed that on the incident date, multiple officers knocked on the § 87(2)(b)' apartment door and identified themselves as police officers. § 87(2)(b) spoke to the officers through the closed door and asked why they had come. The officers told her that they were looking for § 87(2)(b) and held a copy of the arrest warrant up to the peephole. § 87(2)(b) opened the apartment door but stood in the opening. After a few minutes, § 87(2)(b) came out from the rear of the apartment and stood directly behind § 87(2)(b). The civilians argued with the officers, and Police Officer Baker stepped into the apartment. He pushed § 87(2)(b) to one side, grabbed § 87(2)(b) and pulled § 87(2)(b) into the building hallway.

In her sworn statement, § 87(2)(b) stated that she heard knocking on her apartment door. She ignored it at first because she thought the knocking was coming from her neighbor's apartment. After approximately five minutes, § 87(2)(b) walked to her door, looked through the peephole, and saw approximately six police officers outside the door. An officer identified by the investigation as Sergeant Schwartz was closest to the door and the rest of the officers were standing behind him.

Without opening the door, § 87(2)(b) asked the officers why they were there and Sergeant Schwartz said that they had a warrant. § 87(2)(b) told them she would not open the door unless they gave her the name of the person on the warrant. Sergeant Schwartz told § 87(2)(b) that the name on the warrant was "§ 87(2)(b)." § 87(2)(b) told Sergeant Schwartz that there were multiple people named § 87(2)(b) that lived at the residence. Sergeant Schwartz did not say any name, but placed a paper document up to the peephole. § 87(2)(b) could see that there was a picture of § 87(2)(b) on the bottom right corner of the piece of paper.

§ 87(2)(b) did not say anything to Sergeant Schwartz, but went to wake § 87(2)(b) up. She told § 87(2)(b) that there were officers at the door with a picture of him and they said they had a warrant. As § 87(2)(b) was getting dressed, § 87(2)(b) opened the door of her apartment all the way open because she believed that § 87(2)(b) was going to willfully go with the officers. When § 87(2)(b) opened the door, Sergeant Schwartz placed his foot in the doorway. § 87(2)(b) said, “You’re stepping into my apartment,” to which Sergeant Schwartz responded, “No I’m not.” § 87(2)(b) then again told him that he was and told him to move his foot.

§ 87(2)(b) reached for the paper in Sergeant Schwartz’s hand and he pulled it back from her. At this point, § 87(2)(b) was standing behind § 87(2)(b). An officer identified by the investigation as Police Officer Baker took a step into the apartment and used both hands to push § 87(2)(b) towards her sink. The sink was approximately three feet to § 87(2)(b)’s left. § 87(2)(b) did not fall because she was able to use the sink to brace herself.

Police Officer Baker then took at least one full step into the apartment, grabbed § 87(2)(b) and pulled him into the hallway. § 87(2)(b) did not see how Police Officer Baker grabbed § 87(2)(b) because she was facing the sink after being pushed. When § 87(2)(b) gained her composure enough to observe clearly, she saw § 87(2)(b) in handcuffs against her neighbor’s door in the apartment building hallway.

§ 87(2)(g)

In his sworn statement, § 87(2)(b) stated that he was woken up by loud knocking at the door. He ignored the knocking and after approximately ten minutes, he heard § 87(2)(b) go to the door and ask who was there and who they were looking for. He heard the officers outside say they were looking for § 87(2)(b). His mother asked them which § 87(2)(b) they were looking for.

§ 87(2)(b) heard the front door unlock and he heard the officers’ voices getting louder. He told his mother that he was getting dressed and coming. § 87(2)(b) put pants on and walked up to the door and stood behind § 87(2)(b). § 87(2)(b) had her arms spread with one hand on the door and one hand on the wall.

§ 87(2)(b) was standing behind § 87(2)(b) for approximately two minutes. An officer told § 87(2)(b) that they were there for a warrant. § 87(2)(b) told the officers he was going to put clothes on so they should give him a second. At around this time, Sergeant Schwartz showed § 87(2)(b) the warrant. As she reached for it, Sergeant Schwartz snatched it away.

Police Officer Baker then moved forward and, using his right arm, pushed § 87(2)(b) aside into the kitchen of the apartment. He then grabbed § 87(2)(b) by the wrist. At this point, he was approximately six feet inside of the apartment. He pulled § 87(2)(b) out of the apartment and into the hallway. Police Officer Baker pushed § 87(2)(b) towards his neighbor’s door and pressed him face-first into the door.

Two officers then each grabbed one of § 87(2)(b)'s arms and placed him in handcuffs. § 87(2)(b) attempted to push himself away from the door using his chest, and officers told him to stop resisting.

In his interview, Police Officer Baker stated that on the incident date his field intelligence team conducted a “targeted offender operation.” Police Officer Baker used the DAS-Lite computer system to select the incident building and identify active warrants associated with its residents. Police Officer Baker selected the incident address for targeting because it had been the scene of a homicide “a couple of months” prior to this incident, and has a history of “G Stone Crips” gang activity. Police Officer Baker was aware of multiple prior search warrants being executed in that building that led to the recovery of firearms. Police Officer Baker had not previously been aware of § 87(2)(b) and did not associate him with any of this prior criminal activity.

Using DAS-Lite, Police Officer Baker looked through a set of active warrants and saw who each one was for. He then ran searches for those individuals, and viewed their photographs and prior arrest histories. He found that § 87(2)(b) had an arrest warrant and multiple prior arrests. Police Officer Baker believed the warrant was for an unpaid summons of some kind but could not recall for what.

Police Officer Baker went to § 87(2)(b) in Brooklyn along with his team. He knocked on the § 87(2)(b)' apartment door, and a woman identified by the investigation as § 87(2)(b) started speaking from behind the closed door. Police Officer Baker explained that the police had a warrant for § 87(2)(b) and held the warrant up in front of the peep hole so that § 87(2)(b) could see it.

§ 87(2)(b) opened the door, and officers continued to speak to her for approximately a minute. § 87(2)(b) then appeared and stood behind § 87(2)(b). At this point, Police Officer Baker considered § 87(2)(b) to be under arrest. § 87(2)(b) was approximately five feet inside of his own apartment, standing behind § 87(2)(b).

The officers continued to be “cordial” and explain the situation. They repeated that § 87(2)(b) needed to come with them, that his arrest and warrant would be resolved quickly, and that he needed to get dressed. § 87(2)(b) became “loud” and “agitated.” Police Officer Baker could not recall any specific statements, but § 87(2)(b) was not complying with the officers’ instructions to come with them. At this point, Police Officer Baker was standing on the right side of the door and Sergeant Schwartz was standing on the left side. § 87(2)(b) asked to see the warrant again, and Sergeant Schwartz held up the warrant for her to see. § 87(2)(b) “attempted to rip the warrant out of his hand.” The apartment door started closing and Sergeant Schwartz held it open with one hand.

Police Officer Baker entered the apartment and moved § 87(2)(b) to the side. He grabbed and “bear-hugged” § 87(2)(b). Police Officer Baker used a “seatbelt hold” to control § 87(2)(b). Police Officer Baker described this hold as him wrapping his arms around § 87(2)(b)'s arms and pinning them to § 87(2)(b)'s side, and clasping his own two hands together palm-to-palm to prevent § 87(2)(b) from escaping. Police Officer Baker was inside of the apartment for approximately three to four seconds before he “muscled

§ 87(2)(b) outside.” Sgt. Schwartz also entered the apartment, but Police Officer Baker did not describe him taking any specific actions.

Once § 87(2)(b) was in the apartment hallway, other officers assisted Police Officer Baker in controlling and handcuffing him. He was placed with his stomach against a wall and both of his hands behind his back. § 87(2)(b) was “combative,” and was moving his arms around as officers tried to handcuff him. Officers handcuffed § 87(2)(b) after approximately 30 seconds of physical struggle. Once he was handcuffed, § 87(2)(b) became “super combative.” He was “yelling and cursing.” At the officers’ request, § 87(2)(b) brought out § 87(2)(b)’s shoes, pants, and shirt. § 87(2)(b) was then dressed and brought to the stationhouse.

§ 87(2)(g)



Entry and Force.mp4

Sergeant Schwartz’s BWC video (**Board Review 01**, sub-clip embedded above) shows Sergeant Schwartz and Police Officer Baker standing in front of the partially open door of the incident apartment. § 87(2)(b) stands in the doorway, and Sergeant Schwartz shows her a set of papers (determined by the investigation to be the arrest warrant for § 87(2)(b)). Police Officer Baker’s BWC video (**Board Review 03**) shows § 87(2)(b) reaching for these papers. As she does so, Sergeant Schwartz pulls them away from her and Police Officer Baker enters the apartment. Police Officer Baker pushes § 87(2)(b) out of the way with one arm, then grabs § 87(2)(b). The footage from Police Officer Baker’s BWC is then obscured, as is the footage from the other officers’ BWCs during this period of the incident. After a few seconds, however, the footage from all the officers’ BWCs show § 87(2)(b) being pressed against the building hallway wall and handcuffed by Police Officer Baker, Police Officer Casillas, and Police Officer Walker.

Police Officer Baker prepared a TRI report for this incident (**Board Review 20**). This report provides no narrative of the incident, and only describes Police Officer Baker’s use of force as “wrestling/grappling.” Both the complaint report (UF-61) and arrest report for § 87(2)(b) from the incident lists the relevant arrest warrant as stemming from docket number § 87(2)(b) (**Board Review 21**). According to the arrest report, § 87(2)(b) was charged with § 87(2)(b).

On September 9, 2018, the IAB liaison fulfilled a document request for warrants issued for § 87(2)(b) regarding a specific criminal docket number. Two warrants were provided (**Board Review 12**), both of which had been resolved and cancelled based on § 87(2)(b)’s apprehension. While the content of the warrants is not visible, the dates of issuance and cancellation are visible. One of the warrants has an

issuance date of § 87(2)(b), and a cancellation date of § 87(2)(b). § 87(2)(g)

§ 87(2)(b)

It is undisputed that Police Officer Baker entered the incident apartment after § 87(2)(b) was standing in plain view of the officers. Based on the collected BWC footage, the investigation has also determined that Sergeant Schwartz fully entered the apartment at that point. However, § 87(2)(b) described Sergeant Schwartz placing a foot across the apartment threshold to hold her door open prior to § 87(2)(b)'s appearance, and the interviewed officers did not confirm or deny that this happened. The collected BWC footage all starts after this action is alleged to have occurred. § 87(2)(g)

While Police Officer Baker and Sergeant Grieco did not clearly recall the information they had regarding § 87(2)(b)'s appearance (a photograph, a description, demographic information, etc.), § 87(2)(b) stated that the warrant she was shown had a recognizable photograph of § 87(2)(b) on it. § 87(2)(g)

Under New York State Criminal Procedure Law 120.80 (**Board Review 13**), an officer in possession of an arrest warrant may enter any premises in which he reasonably believes the defendant to be present in order to effect an arrest. Furthermore, an officer may use such physical force as is justifiable pursuant to section 35.30 of the penal law. Under New York State Criminal Procedure Law 35.30 (**Board Review 14**), an officer may use physical force when and to the extent he or she reasonably believes to be necessary to effect an arrest. According to NYPD Patrol Guide Procedure 221-01 (**Board Review 15**), officers will use only the reasonable force necessary to gain control or custody of a subject.

§ 87(2)(g)

However, § 87(2)(b) also alleged that Sergeant Schwartz entered the apartment before § 87(2)(b) appeared. At this point in the incident, Sergeant Schwartz possessed a warrant listing the incident apartment as § 87(2)(b)'s address. The officers had knocked on the apartment door and spoken to § 87(2)(b) who confirmed that multiple people with the last name § 87(2)(b) lived therein. Finally, after the officers showed

the photograph of § 87(2)(b) to § 87(2)(b) she opened the door and continued speaking with them about the situation. She did not deny that § 87(2)(b) was present, but rather asked further questions about what was happening. § 87(2)(g)

§ 87(2)(g)

While § 87(2)(b) is a small, elderly woman and was not suspected of any crime, she was standing directly between the officers and an identified suspect. Police Officer Baker used a limited amount of physical contact to move § 87(2)(b) out of his way, and this contact did not injure her or cause her to fall. Once § 87(2)(b) was no longer between him and § 87(2)(b) Police Officer Baker made no further contact with her over the course of the incident. § 87(2)(g)

Police Officer Baker grappled with § 87(2)(b) for several seconds before positioning him up against the building hallway wall. Police Officer Baker then worked with Police Officer Casillo and Police Officer Walker to handcuff § 87(2)(b) and the officers used no further force against him. § 87(2)(g)

Allegation G – Discourtesy: At the 67th Precinct stationhouse, Sergeant David Grieco spoke discourteously to § 87(2)(b)

Allegation H – Abuse of Authority: At the 67th Precinct stationhouse, Sergeant David Grieco threatened to detain § 87(2)(b)

In his sworn statement, § 87(2)(b) stated that he was taken to a stationhouse and immediately put in a cell. After approximately two hours, § 87(2)(b) started to say things along the lines of, “I’m fucking hungry. I’m tired. I miss my fucking son. I don’t want to be here. This is bullshit. I’m about to sue the fuck out of this precinct.” § 87(2)(b) kept repeating himself and began to cry. After a few minutes, Sergeant Grieco came over to the cell and said, “Shut the fuck up or I’ll push your paperwork back.” § 87(2)(b) did not describe any other officers or civilians as being present during this allegation.

In his interview, Sergeant Grieco stated that § 87(2)(b) was transported to the 67th Precinct stationhouse in a police vehicle. Sergeant Grieco could not recall interacting with § 87(2)(b) at the stationhouse. Sergeant Grieco did not recall § 87(2)(b) becoming

upset while in the stationhouse. Sergeant Grieco denied hearing § 87(2)(b) curse, and denied cursing at him. He denied hearing another officer curse at § 87(2)(b). He denied saying or hearing another officer say, “Shut the fuck up or I’ll push your paperwork back.”

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**Board Review 16**).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (**Board Review 17**).
- Sergeant Grieco has been a member of service for thirteen years and has been a subject in 27 prior CCRB complaints and 58 prior allegations, of which eight were substantiated:
 - Complaint number 201111996 involved substantiated allegations of premises entered and/or searched and failure to prepare a memo book entry against Sergeant Grieco. The Board recommended command discipline and the NYPD imposed instructions.
 - Complaint number 201207718 involved a substantiated allegation of stop against Sergeant Grieco. The Board recommended charges and the NYPD imposed command discipline (one vacation day).
 - Complaint number 201405351 involved substantiated allegations of premises entered and/or searched and failure to prepare a memo book entry against Sergeant Grieco. The Board recommended charges and the NYPD imposed no penalty.
 - Complaint number 201800398 involved substantiated allegations of vehicle stop, vehicle search, threat of summons, search of person, and failure to prepare a memo book entry against Sergeant Grieco. The Board recommended charges and the NYPD has not yet imposed discipline.
 - § 87(2)(g)
- Sergeant Schwartz has been a member of service for ten years and has been a subject in four prior CCRB complaints and six prior allegations, none of which were substantiated. § 87(2)(g)
- Police Officer Baker has been a member of service for six years and has been a subject in seven prior CCRB complaints and 12 prior allegations, none of which were substantiated. § 87(2)(g)
- Police Officer Casillas has been a member of service for six years and has been a subject in two prior CCRB complaints and six prior allegations, none of which were substantiated. § 87(2)(g)
- Police Officer Walker has been a member of service for three years and has been a subject in one prior CCRB complaint and three prior allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This complaint was unsuitable for mediation.
- As of February 5, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this complaint (**Board Review 22**).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (**Board Review 18**).

- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Squad No.: 10

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date